

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1, 2, 4-10, 12-20, 22-24, 26-30, 32, 33, 35-37, 39, and 43-46 are presently pending in the present application. Claims 1, 5-7, 10, 14, 15, 19, 23, 28, and 33 have been amended by way of the present Amendment. Claims 3, 11, 21, 25, 31, 34, 38, and 40-42 have been canceled without prejudice or disclaimer. No new matter is introduced by this amendment. (See, e.g., paragraphs [0009], [0013], [0040], [0055], [0056], and [0060] of U.S. Pub. No. 2006/0285508.)

In the Office Action, claims 1, 4-8, 10, 13-17, 19, 20, 22-24, 26, 27, 32, 43-44, and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Bonomi et al.* (U.S. Patent No. 6,769,127) in view of *Pekonen* (U.S. Pub. No. 2003/0152107) and *McKenna et al.* (U.S. Pub. No. 2002/0019228); claims 2, 9, 12, 18, 29, and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Bonomi et al.* in view of *Pekonen*, *McKenna et al.*, and *Perkes* (U.S. Pub. No. 2003/0110503); and claims 28, 33, 35-37, and 45 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Perkes* in view of *Pekonen*, and *McKenna et al.*.

Regarding the obviousness rejections, the Applicants respectfully traverse and request the withdrawal thereof for the reasons set forth below.

MPEP §2141 notes that the Patent Office bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. MPEP §2142 further notes that “[t]o reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical ‘person of ordinary skill in the art’ when the invention was unknown and just before it was made. Knowledge of applicant’s disclosure must be put aside in

reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art."

The Applicants submit that the Office Action fails to establish a *prima facie* case of obviousness for the claims as they are set forth herein, since there is no evidentiary support for the conclusion that the features recited in the claims were known at the time of the present invention. Accordingly, the Applicants request that such evidentiary support be placed on the record, or the obviousness rejections withdrawn.

Independent claim 1 of the present application recites, among other features, repeatedly causing transmission of **information relating to timing of a subsequent transmission of the service identification data and a given frequency of the channel at which the subsequent transmission of the service identification data will occur**. Independent claim 10 of the present application recites, among other features, a transmitter configured to repeatedly transmit **information relating to timing of a subsequent transmission of the service identification data and a given frequency of the channel at which the subsequent transmission of the service identification data will occur**. Independent claim 19 of the present application recites, among other features, a receiver configured to receive at least one repeated transmission of **information relating to timing of a subsequent transmission of service identification data and a given frequency of a channel at which the subsequent transmission of the service identification data will occur**, and a tuner configured to use the information to tune to the channel at an appropriate time to decode service identification data. Independent claim 23 of the present application recites, among other features, receiving at least one repeated transmission

of information relating to timing of a subsequent transmission of service identification data and a given frequency of a channel at which the subsequent transmission of the service identification data will occur, and using the information to tune to the channel at an appropriate time to decode service identification data. The Applicants submit that the applied references, either when taken singularly or in combination, fail to disclose or suggest all of the above features.

With regard to the previous limitation of repeatedly causing transmission of information related to timing of transmissions of the service identification data and a given frequency of the channel at which the transmission of the service identification will occur, the Office Action acknowledges on page 5 that *Bonomi et al.* fails to disclose such a feature. The Office Action merely indicates that *Bonomi et al.* teaches that “service identification data can be transmitted automatically (repeatedly) based on requests (immediate delivery) or per a schedule....”

Bonomi et al. describes updating the program guide; however, it merely discusses performing such updates at predefined times or upon request, but does not disclose transmission or receiving transmission of information relating to timing of a subsequent transmission of service identification data and a given frequency of a channel at which the subsequent transmission of the service identification data will occur. No such transmission of information relating to timing of a subsequent transmission of service identification data is disclosed or suggested. Additionally, *Pekonen* does not appear to supplement this deficiency, but rather also appears to suggest the use of predefined times.

The Office Action cites *McKenna et al.* for the teaching of repeatedly causing transmission of information related to timing of transmissions of the service identification data and a given frequency of the channel at which the transmission of the service identification will

occur. More specifically, the Office Action cites to paragraphs [0087]-[0088] and [0184]-[0185], which includes a discussion of a frame (800) that includes a Radio Frequency Configuration segment (811) that defines the Traffic channel on which the frame is to be broadcast. The Applicants note, however, that this segment (811) is contained within the frame (800) that includes the program guide (812), and the segment (811) provides information used by the broadcaster that defines the channel on which that frame (800) is broadcast, but does not provide any information regarding a **subsequent** transmission of service identification data. Accordingly, the Applicants submit that *McKenna et al.* fails to supplement the deficiencies of *Bonomi et al.* and *Pekonen*.

Accordingly, the Applicants submit that the applied references, either when taken singularly or in combination, fail to disclose or suggest all of the limitations recited in independent claims 1, 10, 19, and 23. Therefore, the Applicants respectfully request the withdrawal of the obviousness rejection of independent claims 1, 10, 19, and 23.

The claims that depend from claims 1, 10, 19, and 23 are considered allowable for the reasons advanced for their respective independent claim. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of their respective independent claim.

Independent claim 28 of the present application recites, among other features, **receiving information relating to timing of a subsequent transmission of the service identification data and a given frequency of the channel at which the subsequent transmission of the service identification data will occur.** Independent claim 33 of the present application recites, among other features, a receiver configured to **receive information relating to timing of a**

subsequent transmission of the service identification data and a given frequency of the channel at which the subsequent transmission of the service identification data will occur.

The Applicants submit that the applied references, either when taken singularly or in combination, fail to disclose or suggest all of the above features.

The Office Action acknowledges on page 14 that *Perkes* does not disclose receiving information relating to timing of a transmission of the service identification data and a given frequency of the channel at which the transmission of the service identification data will occur, and thus clearly does not disclose receiving information relating to timing of a **subsequent transmission of service identification data**. Additionally, as noted above, *Pekonen* and *McKenna et al.* also do not disclose either the transmission of or receipt of such information, and therefore do not supplement the deficiencies in the teaching of *Perkes*.

Accordingly, the Applicants submit that the applied references, either when taken singularly or in combination, fail to disclose or suggest all of the limitations recited in independent claims 28 and 33. Therefore, the Applicants respectfully request the withdrawal of the obviousness rejection of independent claims 28 and 33.

The claims that depend from claims 28 and 33 are considered allowable for the reasons advanced for their respective independent claim. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of their respective independent claim.

Therefore, the present application is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the

Examiner telephone the undersigned attorney at (703) 519-9957 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

May 19, 2010
Date

Christopher D. Ward/
Christopher D. Ward
Attorney/Agent for Applicant(s)
Reg. No. 41,367

Phouphanomketh Dithavong
Attorney/Agent for Applicant(s)
Reg. No. 44,658

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9957
Fax (703) 519-9958